



6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

**[EPA-HQ-OARM-2018-0165; FRL-9979-24-OARM]**

**48 CFR Parts 1519 and 1552**

### **Acquisition Regulation: Removal of EPA Mentor Protégé Program**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA or Agency) is taking direct final action to amend the EPA Acquisition Regulation (EPAAR) by removing Mentor-protégé clause requirement and the corresponding provision and clause, “Mentor Protégé Program” and “Procedures for Participation in the EPA Mentor Protégé Program”.

**DATES:** This final rule is effective on **[insert date 90 days after date of publication in the Federal Register]** without further notice, unless EPA receives adverse comment by **[Insert date 30 days after date of publication in the Federal Register]**. If EPA receives adverse comment, we will publish a timely withdrawal in the Federal Register informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OARM-2018-0165, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment

and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Shakethia Allen, Policy, Training, and Oversight Division, Acquisition Policy and Training Service Center (3802R), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: 202-564-5157; email address: [allen.shakethia@epa.gov](mailto:allen.shakethia@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Executive Summary**

This direct final rule makes the following changes to 48 CFR parts 1519 and 1552: 1) remove 1519.203, Mentor-protégé, 2) clause 1552.219-70, Mentor Protégé Program, and 3) provision 1552.219-71, Procedures for Participation in the EPA Mentor Protégé Program.

### **II. General Information**

#### ***A. Why is EPA Using a Direct Final Rule?***

EPA is publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. If EPA receives adverse comment, we will publish a timely withdrawal in the Federal Register informing the public that the rule will not take effect. Any parties interested in commenting must do so at this time.

#### ***B. Does this action apply to me?***

EPAAR 1519.203 and corresponding clause and provision, respectively, 1552.219-70 and 1552.219-71 apply to all contractors who hold a current contract with EPA which includes these

clauses.

***C. What Should I Consider as I Prepare My Comments for EPA?***

1. *Submitting CBI.* Do not submit this information to EPA through [www.regulations.gov](http://www.regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
- Follow directions - The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal

threats.

- Make sure to submit your comments by the comment period deadline identified.

### **III. Background**

The U.S. Environmental Protection Agency Mentor-Protégé Program was established to stimulate small disadvantaged businesses (SDBs) and women-owned small businesses (WOSBs) participation in Agency contracts. Prime contractors (mentors) provide technical and managerial support to SDBs or WOSBs subcontractors (protégés).

The Small Business Jobs Act of 2010 and the National Defense Authorization Act for Fiscal Year 2013 provided authority for the Small Business Administration (SBA) to establish mentor-protégé programs for all small businesses. Rather than creating separate programs for each constituency – Service Disabled Veteran Owned Businesses, Women Owned Small Businesses, Historically Underutilized Business Zones – the SBA chose to create a single, all-inclusive mentor-protégé program modeled on the successful mentor-protégé program available to participants in its 8(a) program. SBA’s mentor protégé program is federal wide, so EPA can use it instead of managing its own program. EPA will use SBA’s program to reduce redundancy and increase efficiencies.

### **IV. Statutory and Executive Orders Reviews**

#### **A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review**

This action is not a “significant regulatory action” under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and therefore, not subject to review under the EO.

#### **B. Paperwork Reduction Act**

This action does not impose an information collection burden under the provisions of the

Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* No information is collected under this action.

**C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.***

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute; unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impact of this rule on small entities, “small entity” is defined as: (1) a small business that meets the definition of a small business found in the Small Business Act and codified at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. After considering the economic impacts of this rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action removes a current EPAAR provision and does not impose requirements involving capital investment, implementing procedures, or record keeping. This rule will not have a significant economic impact on small entities.

**D. Unfunded Mandates Reform Act**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, Local, and Tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of the Title II of the UMRA) for State, Local, and Tribal governments or

the private sector. The rule imposes no enforceable duty on any State, Local or Tribal governments or the private sector. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

#### **E. Executive Order 13132: Federalism**

Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure “meaningful and timely input by State and Local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in Executive Order 13132.

#### **F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments**

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” This rule does not have tribal implications as specified in Executive Order 13175.

#### **G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks**

Executive Order 13045, entitled “Protection of Children from Environmental Health and Safety Risks” (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be economically significant as defined under Executive Order 12886, and (2) concerns an environmental health or safety risk that may have a proportionate effect on children.

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because it does not involve decisions on environmental health or safety risks.

#### **H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use**

This final rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use” (66 FR 28335, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

#### **I. National Technology Transfer and Advancement Act of 1995 (NTTAA)**

Section 12(d) (15 U.S.C. 272 note) of NTTAA, Public Law 104-113, directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This final rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

#### **J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority**

## **Populations and Low-Income Populations**

Executive Order 12898 Federal Actions To Address Environmental Justice in Minority

Populations and Low-Income Populations (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA has determined that this final rulemaking will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This rulemaking does not involve human health or environmental effects.

## **K. Congressional Review**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of agency organization, procedure, or practice that does not



substantially affect the rights or obligations of non-agency parties. EPA will use SBA's federal wide mentor protégé program instead of managing its own program.

**List of Subjects in 48 CFR Parts 1519 and 1552**

Environmental protection, Government procurement, Reporting and recordkeeping requirements, Small businesses.

Dated: May 16, 2018.

Kimberly Patrick,

Director, Office of Acquisition Management.

For the reasons stated in the preamble, 48 CFR parts 1519 and 1552 are amended as set forth below:

**PART 1519—SMALL BUSINESS PROGRAMS**

1. The authority citation for part 1519 continues to read as follows:

**Authority:** Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

**1519.203 [Removed and reserved]**

2. Section 1519.203 is removed and reserved.

**PART 1552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

3. The authority citation for part 1552 continues to read as follows:

**Authority:** 5 U.S.C. 301 and 41 U.S.C. 418b.

**1552.219-70 [Removed and reserved]**

4. Section 1552.219-70 is removed and reserved.

**1552.219-71 [Removed and reserved]**

5. Section 1552.219-71 is removed and reserved.

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